

Application No.: 10/619008

Case No.: 53867US018

Telephone Interview

Applicants wish to thank the Examiner for the courtesy extended during the telephone interview of April 11, 2005 between Robert Sprague and Chereé Johnson, during which the amendments and arguments presented herein were discussed. Applicants also thank the Examiner for withdrawing the finality of the Office Action dated December 1, 2004.

Remarks

Applicants submit the following response to the December 1, 2004 Office Action. Reconsideration and withdrawal of the rejections are respectfully requested.

Claims 1-7, 9-12, and 14-19 are pending. Claims 2, 3, 6-8, 10, 12-14, 16, and 17 are canceled (without prejudice to present the subject matter thereof in another application). Claims 1, 4, 5, 9, 11, 18, and 19 are amended. Claims 20-23 are new.

Independent claim 1 has been amended to incorporate the limitations of original dependent claims 2 and 3, which require that the tacky component comprises a pressure sensitive adhesive comprising a (meth)acrylate polymer wherein the (meth)acrylate polymer is a copolymer of monomers comprising about 40 to about 100 weight percent of an alkyl (meth)acrylate and 0 to about 60 weight percent of a free radically copolymerizable monomer.

Claims 4 and 5 are amended to correct dependency.

Claims 9, 11, 18, and 19 are amended and rewritten in independent form to include all of the limitations of each base claim and their intervening claims.

Claims 20-23 are new and derived from canceled dependent claims 2, 6, 10, and 12, support for which can be found throughout the specification. Applicants submit that no new issues have been presented.

Allowed Claims

Applicants thank the Examiner for notification to the effect that claims 3-5, 7, 9, 11, 18, and 19 are objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, Applicants acknowledge with gratitude the noted allowability of claim 15.

Application No.: 10/619008

Case No.: 53867US018

§ 112 Rejection

Claims 1-7, 9-12, 14, and 17-19 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. According to the Office Action, Applicants have not defined in the claims how much is considered an "effective amount."

In the present specification, Applicants have defined what is intended by an "effective amount" in a manner sufficient for one of ordinary skill in the art to determine an appropriate therapeutic dosage. For example on page 22, ll. 16-24, it is disclosed that "[t]he amount that constitutes a therapeutically effective amount varies according to a number of factors including the particular pharmacological agent(s) being used, the condition being treated, the characteristics of the host, any drugs being coadministered, desired duration of treatment, surface of the host at which the covering element is to be placed, other components of the fluid composition, and the like. An appropriate therapeutic dosage can be determined by one skilled in the art with due consideration given to such factors. As general guidelines, however, a typical therapeutic amount may in the range of about 0.01 to about 30 percent by weight based upon the total weight of the nonsolvent components of the fluid composition." This disclosure together with the many working examples also included in the Specification provide ample disclosure to define what is meant by "effective amount" for purposes of the claims.

Accordingly, in view of the above, withdrawal of the rejection of claims 1-7, 9-12, 14, and 17-19 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

§ 102 Rejections

Claims 1, 2, 6, 10, 12, and 17 stand rejected under 35 USC § 102(b) as being anticipated by Burghart (WO 88/095185). Applicants believe that this rejection has been obviated by amendment of claim 1 and the cancellation of claims 2, 6, 10, 12, and 17 without prejudice. However, Applicants expressly reserve the right to file a continuation application claiming the subject matter of the cancelled claims in the event Applicants wish to pursue such subject matter later.

Application No.: 10/619008

Class No.: 5386708018

In view of the above, it is submitted that the application is in condition for allowance.
Entry of the above amendment, reconsideration and withdrawal of all rejections of the
pending claims of the application are requested.

Respectfully submitted,

Date

5-12-05

By:

Robert W. Spang, Reg. No.: 30,497
Telephone No.: (614) 733-4247

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833